I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: May 26, 2009
Electronic Signature for Debra J. Milasincic, Esq.: /Debra J. Milasincic, Esq./

Docket No.: KZY-004US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Christian Widmann *et al.*

Application No.: 10/563,536 Confirmation No.: 8023

Filed: June 16, 2006 Art Unit: 1656

For: RASGAP DERIVED PEPTIDE FOR SELECTIVELY KILLING CANCER CELLS Examiner: Chih Min Kam

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

This is in response to the restriction requirement set forth in the Office Action mailed December 24, 2008.

The Examiner has required election of a species of nucleotide sequence (see claims 2, 34, 38 and 41) and election of a species of genotoxin (see claims 11, 35 and 42) for prosecution on the merits to which the generic claims shall be restricted if no generic claim is finally held to be allowable.

With respect to the species of nucleotide sequence, Applicants hereby elect SEQ ID NO:4 (corresponding to the human RasGap fragment encoding sequence) for continued examination, with traverse. With respect to the species of genotoxin, Applicants hereby elect "alkylating agent" for continued examination, with traverse.

Traversal is on the grounds that the Examiner has presented no reasoned basis as to why the species lack ***unity of invention*** and/or why the species are ***not so linked as to form a single inventive concept*** under **PCT Rule 13**. As the Examiner is likely aware, unity of invention (not

restriction practice pursuant to 37 CFR 1.141 – 1.146) is applicable in national applications submitted under 35 U.S.C. 371. The Examiner references "mutally exclusive characteristics" of the species but Applicants are unclear as to the Examiner's apparent reliance on an arguable ***restriction practice*** basis rather than ***unity of invention*** basis. Appropriate clarification of the record is requested.

In order to be fully responsive, Applicants elect the above enumerated species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Presently, claims 1-9, 11-12, 14-15, 17-19, 23, 25 and 27-39 are readable on the elected species of nucleotide sequence and claims 1-9, 11-12, 23, 25 and 27-39 are readable on the elected species of genotoxin.

It is Applicants' understanding that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim. Applicants reserve the right to prosecute non-elected subject matter in one or more continuing applications and, in particular, reserve the right to prosecute additional, non-elected species in one or more divisional applications should the Office conclude that a generic claim is non-allowable.

Applicants respectfully submit that the instant claims are in condition for allowance. The Examiner is requested to contact the undersigned for discussion of the above, if deemed appropriate.

Dated: May 26, 2009

Respectfully submitted,

Electronic signature: /Debra J. Milasincic, Esq./
Debra J. Milasincic, Esq.
Registration No.: 46,931
LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant